

110TH CONGRESS
2D SESSION

H. R. 6312

AN ACT

To advance credit union efforts to promote economic growth, modify credit union regulatory standards and reduce burdens, to provide regulatory relief and improve productivity for insured depository institutions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
 3 “Credit Union, Bank, and Thrift Regulatory Relief Act
 4 of 2008”.

5 (b) TABLE OF CONTENTS.—The table of contents for
 6 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CREDIT UNIONS

- Sec. 101. Investments in securities by Federal credit unions.
- Sec. 102. Increase in investment limit in credit union service organizations.
- Sec. 103. Member business loan exclusion for loans to nonprofit religious organizations.
- Sec. 104. Authority of NCUA to establish longer maturities for certain credit union loans.
- Sec. 105. Providing the National Credit Union Administration with greater flexibility in responding to market conditions.
- Sec. 106. Conversions of certain credit unions to a community charter.
- Sec. 107. Credit union participation in the SBA section 504 program.
- Sec. 108. Amendments relating to credit union service to underserved areas.
- Sec. 109. Short-term payday loan alternatives within field of membership.
- Sec. 110. Credit union governance.
- Sec. 111. Encouraging small business development in underserved urban and rural communities.

TITLE II—SAVINGS ASSOCIATION PROVISIONS

- Sec. 201. Restatement of authority for Federal savings associations to invest in small business investment companies.
- Sec. 202. Removal of limitation on investments in auto loans.
- Sec. 203. Repeal of qualified thrift lender requirement with respect to out-of-state branches.
- Sec. 204. Small business and other commercial loans.
- Sec. 205. Increase in limits on commercial real estate loans.
- Sec. 206. Savings association credit card banks.

TITLE III—NOTICE PROVISIONS

- Sec. 301. Exception to annual privacy notice requirement under the Gramm-Leach-Bliley Act.

TITLE IV—BUSINESS CHECKING

- Sec. 401. Short title.
- Sec. 402. Interest-bearing transaction accounts authorized for all businesses.
- Sec. 403. Interest-bearing transaction accounts authorized.
- Sec. 404. Rules of construction.
- Sec. 405. Consumer banking costs assessment.

TITLE I—CREDIT UNIONS

SEC. 101. INVESTMENTS IN SECURITIES BY FEDERAL CREDIT UNIONS.

Section 107 of the Federal Credit Union Act (12 U.S.C. 1757) is amended—

(1) by striking “A Federal credit union” and inserting “(a) IN GENERAL.—A Federal credit union”; and

(2) by adding at the end the following new subsection:

“(b) INVESTMENT FOR THE CREDIT UNION’S OWN ACCOUNT.—

“(1) IN GENERAL.—In addition to the investments authorized in subsection (a), a Federal credit union may purchase and hold for its own account such investment securities of investment grade as the Board may authorize by regulation, subject to such limitations and restrictions as the Board may prescribe in the regulations.

“(2) PERCENTAGE LIMITATIONS.—

“(A) SINGLE OBLIGOR.—In no event may the total amount of investment securities of any single obligor or maker held by a Federal credit union for the credit union’s own account exceed

1 at any time an amount equal to 10 percent of
2 the net worth of the credit union.

3 “(B) AGGREGATE INVESTMENTS.—In no
4 event may the aggregate amount of investment
5 securities held by a Federal credit union for the
6 credit union’s own account exceed at any time
7 an amount equal to 10 percent of the assets of
8 the credit union.

9 “(3) INVESTMENT SECURITY DEFINED.—

10 “(A) IN GENERAL.—For purposes of this
11 subsection, the term ‘investment security’
12 means marketable obligations evidencing the in-
13 debtedness of any person in the form of bonds,
14 notes, or debentures and other instruments
15 commonly referred to as investment securities.

16 “(B) FURTHER DEFINITION BY BOARD.—
17 The Board may further define the term ‘invest-
18 ment security’.

19 “(4) INVESTMENT GRADE DEFINED.—The term
20 ‘investment grade’ means with respect to an invest-
21 ment security purchased by a credit union for its
22 own account, an investment security that at the time
23 of such purchase is rated in one of the 4 highest rat-
24 ing categories by at least 1 nationally recognized
25 statistical rating organization.

1 “(5) CLARIFICATION OF PROHIBITION ON
 2 STOCK OWNERSHIP.—No provision of this subsection
 3 shall be construed as authorizing a Federal credit
 4 union to purchase shares of stock of any corporation
 5 for the credit union’s own account, except as other-
 6 wise permitted by law.”.

7 **SEC. 102. INCREASE IN INVESTMENT LIMIT IN CREDIT**
 8 **UNION SERVICE ORGANIZATIONS.**

9 Section 107(a)(7)(I) of the Federal Credit Union Act
 10 (12 U.S.C. 1757(7)(I)) (as so redesignated by section
 11 101(1)) is amended by striking “up to 1 per centum of
 12 the total paid” and inserting “up to 3 percent of the total
 13 paid”.

14 **SEC. 103. MEMBER BUSINESS LOAN EXCLUSION FOR LOANS**
 15 **TO NONPROFIT RELIGIOUS ORGANIZATIONS.**

16 Section 107A(a) of the Federal Credit Union Act (12
 17 U.S.C. 1757a(a)) is amended by inserting “, excluding
 18 loans made to nonprofit religious organizations,” after
 19 “total amount of such loans”.

20 **SEC. 104. AUTHORITY OF NCUA TO ESTABLISH LONGER MA-**
 21 **TURITIES FOR CERTAIN CREDIT UNION**
 22 **LOANS.**

23 Section 107(a)(5) of the Federal Credit Union Act
 24 (12 U.S.C. 1757(5)) (as so redesignated by section
 25 101(1)) is amended in the matter preceding subparagraph

1 (A), by striking “except as otherwise provided herein” and
 2 inserting “or any longer maturity as the Board may allow,
 3 in regulations, except as otherwise provided in this Act”.

4 **SEC. 105. PROVIDING THE NATIONAL CREDIT UNION AD-**
 5 **MINISTRATION WITH GREATER FLEXIBILITY**
 6 **IN RESPONDING TO MARKET CONDITIONS.**

7 Section 107(a)(5)(A)(vi)(I) of the Federal Credit
 8 Union Act (12 U.S.C. 1757(5)(A)(vi)(I)) (as so redesign-
 9 nated by section 101(1)) is amended by striking “six-
 10 month period and that prevailing interest rate levels” and
 11 inserting “6-month period or that prevailing interest rate
 12 levels”.

13 **SEC. 106. CONVERSIONS OF CERTAIN CREDIT UNIONS TO A**
 14 **COMMUNITY CHARTER.**

15 Section 109(g) of the Federal Credit Union Act (12
 16 U.S.C. 1759(g)) is amended by inserting after paragraph
 17 (2) the following new paragraph:

18 “(3) CRITERIA FOR CONTINUED MEMBERSHIP
 19 OF CERTAIN MEMBER GROUPS IN COMMUNITY CHAR-
 20 TER CONVERSIONS.—In the case of a voluntary con-
 21 version of a common-bond credit union described in
 22 paragraph (1) or (2) of subsection (b) into a com-
 23 munity credit union described in subsection (b)(3),
 24 the Board shall prescribe, by regulation, the criteria
 25 under which the Board may determine that a mem-

1 ber group or other portion of a credit union’s exist-
 2 ing membership, that is located outside the well-de-
 3 fined local community, neighborhood, or rural dis-
 4 trict that shall constitute the community charter,
 5 can be satisfactorily served by the credit union and
 6 remain within the community credit union’s field of
 7 membership.”.

8 **SEC. 107. CREDIT UNION PARTICIPATION IN THE SBA SEC-**
 9 **TION 504 PROGRAM.**

10 Section 107(a)(5)(A)(iii) of the Federal Credit Union
 11 Act (12 U.S.C. 1757(5)(A)(iii)) (as so redesignated by
 12 section 101(1)) is amended by inserting “, and applicable
 13 regulations,” after “specified in the law”.

14 **SEC. 108. AMENDMENTS RELATING TO CREDIT UNION**
 15 **SERVICE TO UNDERSERVED AREAS.**

16 (a) IN GENERAL.—Paragraph (2) of section 109(c)
 17 of the Federal Credit Union Act (12 U.S.C. 1759(c)(2))
 18 is amended to read as follows:

19 “(2) EXCEPTION FOR UNDERSERVED AREAS.—

20 “(A) IN GENERAL.—Notwithstanding sub-
 21 section (b), the Board may approve an applica-
 22 tion by a Federal credit union to allow the
 23 membership of such credit union to include any
 24 person or organization whose principal resi-
 25 dence or place of business is located within a

1 local community, neighborhood, or rural district
2 if—

3 “(i) the Board determines—

4 “(I) at any time after August 7,
5 1998, that all of the local community,
6 neighborhood, or rural district taken
7 into account for purposes of this para-
8 graph is an underserved area (as de-
9 fined in section 101(10)); and

10 “(II) at the time of such ap-
11 proval, that the credit union is well
12 capitalized or adequately capitalized
13 (as defined in section 216(c)(1)); and

14 “(ii) before the end of the 24-month
15 period beginning on the date of such ap-
16 proval, the credit union has established
17 and maintains an office or facility in the
18 local community, neighborhood, or rural
19 district at which credit union services are
20 available.

21 “(B) TERMINATION OF APPROVAL.—Any
22 failure of a Federal credit union to meet the re-
23 quirement of clause (ii) of subparagraph (A) by
24 the end of the 24-month period referred to in
25 such clause shall constitute a termination, as a

1 matter of law, of any approval of an application
2 under this paragraph by the Board with respect
3 to the membership of such credit union.

4 “(C) ANNUAL CREDIT UNION REPORTING
5 REQUIREMENT.—Any Federal credit union
6 which has an application approved under this
7 paragraph shall submit an annual report to the
8 Administration on the number of members of
9 the credit union who are members by reason of
10 such application and the number of offices or
11 facilities maintained by the credit union in the
12 local community, neighborhood, or rural district
13 taken into account by the Board in approving
14 such application.

15 “(D) PUBLICATION BY ADMINISTRA-
16 TION.—The Administration shall publish annu-
17 ally a report containing—

18 “(i) a list of all the applications ap-
19 proved under this paragraph prior to the
20 publication of the report;

21 “(ii) the number and locations of the
22 underserved areas taken into account in
23 approving such applications; and

1 “(iii) the total number of members of
2 credit unions who are members by reason
3 of the approval of such applications.”.

4 (b) UNDERSERVED AREA DEFINED.—Section 101 of
5 the Federal Credit Union Act (12 U.S.C. 1752) is amend-
6 ed—

7 (1) by striking “and” at the end of paragraph
8 (8);

9 (2) by striking the period at the end of para-
10 graph (9) and inserting “; and”; and

11 (3) by adding at the end the following new
12 paragraph:

13 “(10) the term ‘underserved area’—

14 “(A) means a geographic area consisting of
15 a single census tract or a group of census
16 tracts, each of which—

17 “(i) meets the criteria for—

18 “(I) a low income community, as
19 defined in section 45D(e) of the Inter-
20 nal Revenue Code of 1986; or

21 “(II) an investment area, as de-
22 fined and designated under section
23 103(16) of the Community Develop-
24 ment Banking and Financial Institu-
25 tions Act of 1994; and

1 “(ii) is not a tract in which 50 per-
2 cent or more of the resident families have
3 annual incomes in excess of \$75,000 (as
4 adjusted periodically by the Board, at the
5 discretion of the Board, to reflect changes
6 in the average Consumer Price Index for
7 all-urban consumers published by the De-
8 partment of Labor); and

9 “(B) notwithstanding subparagraph (A),
10 includes, with respect to any Federal credit
11 union, any geographic area within which such
12 credit union—

13 “(i) has received approval to provide
14 service before the date of the enactment of
15 the Credit Union, Bank, and Thrift Regu-
16 latory Relief Act of 2008 from the Na-
17 tional Credit Union Administration; and

18 “(ii) has established a service facility
19 before such date of enactment.”.

20 **SEC. 109. SHORT-TERM PAYDAY LOAN ALTERNATIVES**
21 **WITHIN FIELD OF MEMBERSHIP.**

22 Section 107(a) of the Federal Credit Union Act (12
23 U.S.C. 1757(5)) (as so redesignated by section 101(1))
24 is amended—

1 (1) by redesignating paragraphs (16) and (17)
2 as paragraphs (17) and (18), respectively; and

3 (2) by inserting after paragraph (15) the end
4 the following new paragraph:

5 “(16) to make short-term unsecured loans as
6 an alternative to payday loans, in amounts not more
7 than \$1,000 each and for a term of not more than
8 90 days, to nonmembers in the field of membership,
9 subject to the same terms and conditions as are ap-
10 plicable under paragraph (5)(A), including the inter-
11 est rate ceiling, with respect to loans to members, to
12 the extent applicable, and to regulations prescribed
13 by the Board.”.

14 **SEC. 110. CREDIT UNION GOVERNANCE.**

15 (a) **EXPULSION OF MEMBERS FOR JUST CAUSE.**—
16 Subsection (b) of section 118 of the Federal Credit Union
17 Act (12 U.S.C. 1764(b)) is amended to read as follows:

18 “(b) **POLICY AND ACTIONS OF BOARDS OF DIREC-**
19 **TORS OF FEDERAL CREDIT UNIONS.**—

20 “(1) **EXPULSION OF MEMBERS FOR NON-**
21 **PARTICIPATION OR FOR JUST CAUSE.**—The board of
22 directors of a Federal credit union may, by majority
23 vote of a quorum of directors, adopt and enforce a
24 policy with respect to expulsion from membership,
25 by a majority vote of such board of directors, based

1 on just cause, including disruption of credit union
2 operations, or on nonparticipation by a member in
3 the affairs of the credit union.

4 “(2) WRITTEN NOTICE OF POLICY TO MEM-
5 BERS.—If a policy described in paragraph (1) is
6 adopted, written notice of the policy as adopted and
7 the effective date of such policy shall be provided
8 to—

9 “(A) each existing member of the credit
10 union not less than 30 days prior to the effec-
11 tive date of such policy; and

12 “(B) each new member prior to or upon
13 applying for membership.”.

14 (b) TERM LIMITS AUTHORIZED FOR BOARD MEM-
15 BERS OF FEDERAL CREDIT UNIONS.—Section 111(a) of
16 the Federal Credit Union Act (12 U.S.C. 1761(a)) is
17 amended by adding at the end the following new sentence:
18 “The bylaws of a Federal credit union may limit the num-
19 ber of consecutive terms any person may serve on the
20 board of directors of such credit union.”.

21 **SEC. 111. ENCOURAGING SMALL BUSINESS DEVELOPMENT**
22 **IN UNDERSERVED URBAN AND RURAL COM-**
23 **MUNITIES.**

24 Section 107A(c)(1)(B) of the Federal Credit Union
25 Act (12 U.S.C. 1757a(c)(1)(B)) is amended—

1 (1) by striking “or” after the semicolon at the
2 end of clause (iv);

3 (2) by redesignating clause (v) as clause (vi);
4 and

5 (3) by inserting after clause (iv) the following
6 new clause:

7 “(v) that is made to a member, the
8 proceeds of which are to be used for com-
9 mercial, corporate, business, farm or agri-
10 cultural purposes in an underserved area if
11 such extension of credit—

12 “(I) is made to a person or orga-
13 nization whose principal residence or
14 place of business is located within an
15 underserved area (as defined in sec-
16 tion 101(10)) served by the credit
17 union, and is not a business, or a
18 local outlet of a business, operating on
19 a nationwide basis (for purposes of
20 the preceding clause, a locally-owned
21 franchise that consists only of local
22 operations shall not be treated as a
23 business operating on a nationwide
24 basis); or

1 “(II) is secured by real property
2 located within, or is intended to oper-
3 ate as part of a business located with-
4 in, such underserved area; or”.

5 **TITLE II—SAVINGS ASSOCIATION** 6 **PROVISIONS**

7 **SEC. 201. RESTATEMENT OF AUTHORITY FOR FEDERAL** 8 **SAVINGS ASSOCIATIONS TO INVEST IN SMALL** 9 **BUSINESS INVESTMENT COMPANIES.**

10 Subparagraph (D) of section 5(c)(4) of the Home
11 Owners’ Loan Act (12 U.S.C. 1464(c)(4)) is amended to
12 read as follows:

13 “(D) SMALL BUSINESS INVESTMENT COM-
14 PANIES.—Any Federal savings association may
15 invest in 1 or more small business investment
16 companies, or in any entity established to invest
17 solely in small business investment companies
18 formed under the Small Business Investment
19 Act of 1958, except that the total amount of in-
20 vestments under this subparagraph may not at
21 any time exceed the amount equal to 5 percent
22 of capital and surplus of the savings associa-
23 tion.”.

1 **SEC. 202. REMOVAL OF LIMITATION ON INVESTMENTS IN**
 2 **AUTO LOANS.**

3 (a) IN GENERAL.—Section 5(c)(1) of the Home Own-
 4 ers’ Loan Act (12 U.S.C. 1464(c)(1)) is amended by add-
 5 ing at the end the following new subparagraph:

6 “(V) AUTO LOANS.—Loans and leases for
 7 motor vehicles acquired for personal, family, or
 8 household purposes.”.

9 (b) TECHNICAL AND CONFORMING AMENDMENT RE-
 10 LATING TO QUALIFIED THRIFT INVESTMENTS.—Section
 11 10(m)(4)(C)(ii) of the Home Owners’ Loan Act (12
 12 U.S.C. 1467a(m)(4)(C)(ii)) is amended by adding at the
 13 end the following new subclause:

14 “(VIII) Loans and leases for
 15 motor vehicles acquired for personal,
 16 family, or household purposes.”.

17 **SEC. 203. REPEAL OF QUALIFIED THRIFT LENDER RE-**
 18 **QUIREMENT WITH RESPECT TO OUT-OF-**
 19 **STATE BRANCHES.**

20 Section 5(r)(1) of the Home Owners’ Loan Act (12
 21 U.S.C. 1464(r)(1)) is amended by striking the last sen-
 22 tence.

23 **SEC. 204. SMALL BUSINESS AND OTHER COMMERCIAL**
 24 **LOANS.**

25 (a) ELIMINATION OF LENDING LIMIT ON SMALL
 26 BUSINESS LOANS.—Section 5(c)(1) of the Home Owners’

1 Loan Act (12 U.S.C. 1464(c)(1)) is amended by inserting
 2 after subparagraph (V) (as added by section 202(a) of this
 3 title) the following new subparagraph:

4 “(W) SMALL BUSINESS LOANS.—Small
 5 business loans, as defined in regulations which
 6 the Director shall prescribe.”.

7 (b) INCREASE IN LENDING LIMIT ON OTHER BUSI-
 8 NESS LOANS.—Section 5(c)(2)(A) of the Home Owners’
 9 Loan Act (12 U.S.C. 1464(c)(2)(A)) is amended by strik-
 10 ing “, and amounts in excess of 10 percent” and all that
 11 follows through “by the Director”.

12 **SEC. 205. INCREASE IN LIMITS ON COMMERCIAL REAL ES-**
 13 **TATE LOANS.**

14 Section 5(c)(2)(B)(i) of the Home Owners’ Loan Act
 15 (12 U.S.C. 1464(c)(2)(B)(i)) is amended by striking “400
 16 percent” and inserting “500 percent”.

17 **SEC. 206. SAVINGS ASSOCIATION CREDIT CARD BANKS.**

18 Section 10(a)(1)(A) of the Home Owners’ Loan Act
 19 (12 U.S.C. 1467a(a)(1)(A)) is amended by inserting “and
 20 such term does not include an institution described in sec-
 21 tion 2(c)(2)(F) of the Bank Holding Company Act of 1956
 22 for purposes of subsections (a)(1)(E), (c)(3)(B)(i),
 23 (c)(9)(C)(i), and (e)(3)” before the period at the end.

1 **TITLE III—NOTICE PROVISIONS**

2 **SEC. 301. EXCEPTION TO ANNUAL PRIVACY NOTICE RE-**
3 **QUIREMENT UNDER THE GRAMM-LEACH-BLI-**
4 **LEY ACT.**

5 Section 503 of the Gramm-Leach-Bliley Act (15
6 U.S.C. 6803) is amended by adding the following new sub-
7 sections:

8 “(c) EXCEPTION TO ANNUAL NOTICE REQUIRE-
9 MENT.—A financial institution that—

10 “(1) provides nonpublic personal information
11 only in accordance with the provisions of subsection
12 (b)(2) or (e) of section 502 or regulations prescribed
13 under section 504(b);

14 “(2) does not share information with affiliates
15 under section 603(d)(2)(A)(iii) of the Fair Credit
16 Reporting Act; and

17 “(3) has not changed its policies and practices
18 with regard to disclosing nonpublic personal infor-
19 mation from the policies and practices that were dis-
20 closed in the most recent disclosure sent to con-
21 sumers in accordance with this subsection,

22 shall not be required to provide an annual disclosure under
23 this subsection until such time as the financial institution
24 fails to comply with any criteria described in paragraph
25 (1), (2), or (3).

1 “(d) EXCEPTION TO NOTICE REQUIREMENT.—A fi-
2 nancial institution shall not be required to provide any dis-
3 closure under this section if—

4 “(1) the financial institution is licensed by a
5 State and is subject to existing regulation of con-
6 sumer confidentiality that prohibits disclosure of
7 nonpublic personal information without knowing and
8 expressed consent of the consumer in the form of
9 laws, rules, or regulation of professional conduct or
10 ethics promulgated either by the court of highest ap-
11 pellate authority or by the principal legislative body
12 or regulatory agency or body of any State of the
13 United States, the District of Columbia, any terri-
14 tory of the United States, Puerto Rico, Guam,
15 American Samoa, the Trust Territory of the Pacific
16 Islands, the Virgin Islands, or the Northern Mariana
17 Islands; or

18 “(2) the financial institution is licensed by a
19 State and becomes subject to future regulation of
20 consumer confidentiality that prohibits disclosure of
21 nonpublic personal information without knowing and
22 expressed consent of the consumer in the form of
23 laws, rules, or regulation of professional conduct or
24 ethics promulgated either by the court of highest ap-
25 pellate authority or by the principal legislative body

1 or regulatory agency or body of any State of the
 2 United States, the District of Columbia, any terri-
 3 tory of the United States, Puerto Rico, Guam,
 4 American Samoa, the Trust Territory of the Pacific
 5 Islands, the Virgin Islands, or the Northern Mariana
 6 Islands.”.

7 **TITLE IV—BUSINESS CHECKING**

8 **SEC. 401. SHORT TITLE.**

9 This title may be cited as the “Business Checking
 10 Fairness Act of 2008”.

11 **SEC. 402. INTEREST-BEARING TRANSACTION ACCOUNTS**

12 **AUTHORIZED FOR ALL BUSINESSES.**

13 Section 2 of Public Law 93–100 (12 U.S.C. 1832)
 14 is amended—

15 (1) by redesignating subsections (b) and (c) as
 16 subsections (c) and (d), respectively; and

17 (2) by inserting after subsection (a) the fol-
 18 lowing:

19 “(b) Notwithstanding any other provision of law, any
 20 depository institution may permit the owner of any deposit
 21 or account which is a deposit or account on which interest
 22 or dividends are paid and is not a deposit or account de-
 23 scribed in subsection (a)(2) to make up to 24 transfers
 24 per month (or such greater number as the Board of Gov-
 25 ernors of the Federal Reserve System may determine by

1 rule or order), for any purpose, to another account of the
 2 owner in the same institution. An account offered pursu-
 3 ant to this subsection shall be considered a transaction
 4 account for purposes of section 19 of the Federal Reserve
 5 Act unless the Board of Governors of the Federal Reserve
 6 System determines otherwise.”.

7 **SEC. 403. INTEREST-BEARING TRANSACTION ACCOUNTS**
 8 **AUTHORIZED.**

9 (a) REPEAL OF PROHIBITION ON PAYMENT OF IN-
 10 TEREST ON DEMAND DEPOSITS.—

11 (1) FEDERAL RESERVE ACT.—Section 19(i) of
 12 the Federal Reserve Act (12 U.S.C. 371a) is amend-
 13 ed to read as follows:

14 “(i) [Repealed]”.

15 (2) HOME OWNERS’ LOAN ACT.—The first sen-
 16 tence of section 5(b)(1)(B) of the Home Owners’
 17 Loan Act (12 U.S.C. 1464(b)(1)(B)) is amended by
 18 striking “savings association may not—” and all
 19 that follows through “(ii) permit any” and inserting
 20 “savings association may not permit any”.

21 (3) FEDERAL DEPOSIT INSURANCE ACT.—Sec-
 22 tion 18(g) of the Federal Deposit Insurance Act (12
 23 U.S.C. 1828(g)) is amended to read as follows:
 24 “(g) [Repealed]”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 subsection (a) shall take effect at the end of the 2-year
3 period beginning on the date of the enactment of this Act.

4 **SEC. 404. RULES OF CONSTRUCTION.**

5 In the case of an escrow account maintained at a de-
6 pository institution for the purpose of completing the set-
7 tlement of a real estate transaction—

8 (1) the absorption, by the depository institution,
9 of expenses incidental to providing a normal banking
10 service with respect to such escrow account;

11 (2) the forbearance, by the depository institu-
12 tion, from charging a fee for providing any such
13 banking function; and

14 (3) any benefit which may accrue to the holder
15 or the beneficiary of such escrow account as a result
16 of an action of the depository institution described
17 in subparagraph (1) or (2) or similar in nature to
18 such action, including any benefits which have been
19 so determined by the appropriate Federal regulator,
20 shall not be treated as the payment or receipt of interest
21 for purposes of this title and any provision of Public Law
22 93–100, the Federal Reserve Act, the Home Owners’ Loan
23 Act, or the Federal Deposit Insurance Act relating to the
24 payment of interest on accounts or deposits at depository
25 institutions. No provision of this title shall be construed

1 so as to require a depository institution that maintains
 2 an escrow account in connection with a real estate trans-
 3 action to pay interest on such escrow account or to pro-
 4 hibit such institution from paying interest on such escrow
 5 account. No provision of this title shall be construed as
 6 preempting the provisions of law of any State dealing with
 7 the payment of interest on escrow accounts maintained in
 8 connection with real estate transactions.

9 **SEC. 405. CONSUMER BANKING COSTS ASSESSMENT.**

10 (a) IN GENERAL.—The Federal Reserve Act (12
 11 U.S.C. 221 et seq.) is amended—

12 (1) by redesignating sections 30 and 31 as sec-
 13 tions 31 and 32, respectively; and

14 (2) by inserting after section 29 the following
 15 new section:

16 **“SEC. 30. SURVEY OF BANK FEES AND SERVICES.**

17 “(a) BIENNIAL SURVEY REQUIRED.—The Board of
 18 Governors of the Federal Reserve System shall obtain bi-
 19 ennially a sample, which is representative by type and size
 20 of the institution (including small institutions) and geo-
 21 graphic location, of the following retail banking services
 22 and products provided by insured depository institutions
 23 and insured credit unions (along with related fees and
 24 minimum balances):

25 “(1) Checking and other transaction accounts.

1 “(2) Negotiable order of withdrawal and sav-
2 ings accounts.

3 “(3) Automated teller machine transactions.

4 “(4) Other electronic transactions.

5 “(b) MINIMUM SURVEY REQUIREMENT.—The bien-
6 nial survey described in subsection (a) shall meet the fol-
7 lowing minimum requirements:

8 “(1) CHECKING AND OTHER TRANSACTION AC-
9 COUNTS.—Data on checking and transaction ac-
10 counts shall include, at a minimum, the following:

11 “(A) Monthly and annual fees and min-
12 imum balances to avoid such fees.

13 “(B) Minimum opening balances.

14 “(C) Check processing fees.

15 “(D) Check printing fees.

16 “(E) Balance inquiry fees.

17 “(F) Fees imposed for using a teller or
18 other institution employee.

19 “(G) Stop payment order fees.

20 “(H) Nonsufficient fund fees.

21 “(I) Overdraft fees.

22 “(J) Fees imposed in connection with
23 bounced-check protection and overdraft protec-
24 tion programs.

25 “(K) Deposit items returned fees.

1 “(L) Availability of no-cost or low-cost ac-
2 counts for consumers who maintain low bal-
3 ances.

4 “(2) NEGOTIABLE ORDER OF WITHDRAWAL AC-
5 COUNTS AND SAVINGS ACCOUNTS.—Data on nego-
6 tiable order of withdrawal accounts and savings ac-
7 counts shall include, at a minimum, the following:

8 “(A) Monthly and annual fees and min-
9 imum balances to avoid such fees.

10 “(B) Minimum opening balances.

11 “(C) Rate at which interest is paid to con-
12 sumers.

13 “(D) Check processing fees for negotiable
14 order of withdrawal accounts.

15 “(E) Fees imposed for using a teller or
16 other institution employee.

17 “(F) Availability of no-cost or low-cost ac-
18 counts for consumers who maintain low bal-
19 ances.

20 “(3) AUTOMATED TELLER TRANSACTIONS.—
21 Data on automated teller machine transactions shall
22 include, at a minimum, the following:

23 “(A) Monthly and annual fees.

24 “(B) Card fees.

1 “(C) Fees charged to customers for with-
2 drawals, deposits, and balance inquiries through
3 institution-owned machines.

4 “(D) Fees charged to customers for with-
5 drawals, deposits, and balance inquiries through
6 machines owned by others.

7 “(E) Fees charged to noncustomers for
8 withdrawals, deposits, and balance inquiries
9 through institution-owned machines.

10 “(F) Point-of-sale transaction fees.

11 “(4) OTHER ELECTRONIC TRANSACTIONS.—
12 Data on other electronic transactions shall include,
13 at a minimum, the following:

14 “(A) Wire transfer fees.

15 “(B) Fees related to payments made over
16 the Internet or through other electronic means.

17 “(5) OTHER FEES AND CHARGES.—Data on
18 any other fees and charges that the Board of Gov-
19 ernors of the Federal Reserve System determines to
20 be appropriate to meet the purposes of this section.

21 “(6) FEDERAL RESERVE BOARD AUTHORITY.—
22 The Board of Governors of the Federal Reserve Sys-
23 tem may cease the collection of information with re-
24 gard to any particular fee or charge specified in this
25 subsection if the Board makes a determination that,

1 on the basis of changing practices in the financial
2 services industry, the collection of such information
3 is no longer necessary to accomplish the purposes of
4 this section.

5 “(c) BIENNIAL REPORT TO CONGRESS REQUIRED.—

6 “(1) PREPARATION.—The Board of Governors
7 of the Federal Reserve System shall prepare a report
8 of the results of each survey conducted pursuant to
9 subsections (a) and (b) of this section and section
10 136(b)(1) of the Consumer Credit Protection Act.

11 “(2) CONTENTS OF THE REPORT.—In addition
12 to the data required to be collected pursuant to sub-
13 sections (a) and (b), each report prepared pursuant
14 to paragraph (1) shall include a description of any
15 discernible trend, in the Nation as a whole, in a rep-
16 resentative sample of the 50 States (selected with
17 due regard for regional differences), and in each
18 consolidated metropolitan statistical area (as defined
19 by the Director of the Office of Management and
20 Budget), in the cost and availability of the retail
21 banking services, including those described in sub-
22 sections (a) and (b) (including related fees and min-
23 imum balances), that delineates differences between
24 institutions on the basis of the type of institution
25 and the size of the institution, between large and

1 small institutions of the same type, and any engage-
2 ment of the institution in multistate activity.

3 “(3) SUBMISSION TO THE CONGRESS.—The
4 Board of Governors of the Federal Reserve System
5 shall submit an biennial report to the Congress not
6 later than June 1, 2009, and before the end of each
7 2-year period beginning after such date.

8 “(d) DEFINITIONS.—For purposes of this section, the
9 term ‘insured depository institution’ has the meaning
10 given such term in section 3 of the Federal Deposit Insur-
11 ance Act, and the term ‘insured credit union’ has the
12 meaning given such term in section 101 of the Federal
13 Credit Union Act.”.

14 (b) CONFORMING AMENDMENT.—

15 (1) IN GENERAL.—Paragraph (1) of section
16 136(b) of the Truth in Lending Act (15 U.S.C.
17 1646(b)(1)) is amended to read as follows:

18 “(1) COLLECTION REQUIRED.—The Board shall
19 collect, on a semiannual basis, from a broad sample
20 of financial institutions which offer credit card serv-
21 ices, credit card price and availability information
22 including—

23 “(A) the information required to be dis-
24 closed under section 127(c);

1 “(B) the average total amount of finance
2 charges paid by consumers; and

3 “(C) the following credit card rates and
4 fees:

5 “(i) Application fees.

6 “(ii) Annual percentage rates for cash
7 advances and balance transfers.

8 “(iii) Maximum annual percentage
9 rate that may be charged when an account
10 is in default.

11 “(iv) Fees for the use of convenience
12 checks.

13 “(v) Fees for balance transfers.

14 “(vi) Fees for foreign currency con-
15 versions.”.

16 (2) EFFECTIVE DATE.—The amendment made
17 by paragraph (1) shall take effect on January 1,
18 2009.

19 (c) REPEAL OF OTHER REPORT PROVISIONS.—Sec-
20 tion 1002 of Financial Institutions Reform, Recovery, and
21 Enforcement Act of 1989 and section 108 of the Riegle-

- 1 Neal Interstate Banking and Branching Efficiency Act of
- 2 1994 are hereby repealed.

Passed the House of Representatives June 24, 2008.

Attest:

Clerk.

110TH CONGRESS
2D SESSION

H. R. 6312

AN ACT

To advance credit union efforts to promote economic growth, modify credit union regulatory standards and reduce burdens, to provide regulatory relief and improve productivity for insured depository institutions, and for other purposes.